



SDMS Doc ID 2045563

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX**

IN THE MATTER OF:
Omega Chemical Superfund Site
Whittier, Los Angeles County, California

ADMINISTRATIVE ORDER DIRECTING
COMPLIANCE WITH REQUEST FOR
ACCESS

JoAnn K. Shayman Survivor's Trust
Thomas J. Shayman and
Kathryn Chee (a.k.a. Kathryn Shayman),
Co-Trustees

U.S. EPA Region IX
CERCLA Docket No. 2005-3

John W. Shayman Marital Trust
Thomas J. Shayman and
Kathryn Chee (a.k.a. Kathryn Shayman),
Co-Trustees

Proceeding Under Section 104(e) of the
Comprehensive Environmental Response,
Compensation, and Liability Act, as
amended, 42 U.S.C. § 9604(e)

and

John W. Shayman Exemption Trust
Thomas J. Shayman and
Kathryn Chee (a.k.a. Kathryn Shayman),
Co-Trustees,

Respondents

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I. JURISDICTION

1. This Administrative Order ("Order") is issued to JoAnn K. Shayman Survivor's Trust, Thomas J. Shayman and Kathryn Chee (a.k.a. Kathryn Shayman), Co-Trustees; John W. Shayman Marital Trust, Thomas J. Shayman and Kathryn Chee (a.k.a. Kathryn Shayman), Co-Trustees; and John W. Shayman Exemption Trust, Thomas J. Shayman and Kathryn Chee (a.k.a. Kathryn Shayman), Co-Trustees (hereinafter, "Respondents"), pursuant to the authority vested in the President of the United States by Section 104(e)(5) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9604(e)(5), and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR § 300.400(d)(4). This authority was delegated to the Administrator of the United States Environmental Protection Agency ("EPA") on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2923, redelegated to the Regional Administrators of EPA on May 11, 1994, by EPA Delegation No. 14-6, and further delegated to Section Chiefs of the Superfund Division by Region 9 Delegation No. 1290.32, on September 29, 1997.

II. STATEMENT OF PURPOSE

2. This Order requires Respondents to grant EPA and its authorized representatives entry and access to the property described in Paragraph 4 below ("the Property") located in Whittier, California for the purpose of determining the need for response, choosing a response action, taking a response action, or otherwise enforcing the provisions of CERCLA by performing sampling and other assessment work to determine interim and final response actions

necessary to abate soil vapor intrusion into the Skateland building located at 12520 Whittier Boulevard (hereinafter "Skateland Building") and to address soil, soil vapor, and/or groundwater contamination underneath and around the Skateland Building at the Omega Chemical Site (the "Site"). This Order further requires Respondents to refrain from interfering with access to the Property by EPA and its authorized representatives for the purposes set forth herein.

III. FINDINGS OF FACT

3. Respondents own property in Whittier, California adjacent to the Omega Chemical Corporation Facility ("Omega Facility"). This Property is located at 12520 East Whittier Boulevard, Whittier, Los Angeles County, California, and is fully described in Appendix A. Through Quitclaim Deed, JoAnn K. Shayman, as Trustee of the Shayman Living Trust, transferred title to the Property on September 16, 2002 to three trusts in which she, JoAnn K. Shayman, was the Trustee: the JoAnn K. Shayman Survivor's Trust; John W. Shayman Marital Trust; and John W. Shayman Exemption Trust. On July 17, 2004, Thomas J. Shayman and Kathryn Chee (a.k.a. Kathryn Shayman), testified by affidavit supporting an incapacity determination of JoAnn K. Shayman as Trustee and then assumed the role as Co-Trustees for the three aforementioned trusts. Appendix B. The Omega Facility is located at 12504 and 12512 East Whittier Boulevard, Whittier, California, Los Angeles County, California. The Omega Facility and the Property are generally shown on the maps attached as Appendix C.

4. The Property is located near the intersection of Whittier Boulevard and Washington Boulevard in Whittier, California. The Property contains a large, 21,200 square foot building which houses a commercial business, Skateland, which provides a roller skating rink

and other entertainment to its customers, who are predominantly children. The Skateland Building is approximately ten to twenty feet from the Omega Facility property line. The Property is further described in Appendix A.

5. From approximately 1976 to 1991, the Omega Chemical Corporation and Omega Refrigerant Reclamation Company operated the Omega facility as a used solvent and refrigerant recycling, reformulation, and treatment facility. This operation primarily handled chlorinated solvents such as degreasing and dry-cleaning chemicals and refrigerants.

6. Hazardous substances have been or are threatened to be released at or from the Site. Hazardous substances at the Site include, but are not limited to: Tetrachloroethene ("PCE"); Trichloroethene ("TCE"); Freon 11; Freon 113; 1,1-Dichloroethene ("1,1-DCE"); Cis-1,2-Dichloroethene; Trans-1,2-Dichloroethene; 1,1-Dichloroethane; 1,2-Dichloroethane; 1,1,1-Trichloroethane; 1,1,2,2-Tetrachloroethane; Carbon Tetrachloride; Methylene Chloride; Vinyl Chloride; Benzene; MTBE; Aluminum; Chromium; Selenium; Perchlorate; Chloroform; Acetone; Chlordane; Lindane; BHC (alpha, beta gamma combined); and Heptachlor Epoxide. (See, 40 C.F.R. § 302.4) Hazardous substances found at the Site are co-mingled.

7. As a result of the release or threatened release of hazardous substances, EPA has undertaken response actions at or in connection with the Site under Section 104 of CERCLA, 42 U.S.C. § 9604, and will undertake response actions in the future.

a. On August 27, 1993, EPA conducted a Site Assessment at the request of the California EPA, Department of Toxic Substances Control ("DTSC"). During this assessment, EPA observed more than 2,900 fifty-five gallon drums of unprocessed hazardous wastes.

b. In January 1995, EPA conducted a second Site Assessment at the request of DTSC and observed approximately 3,000 drums in various stages of deterioration, many of which were corroded and leaking. Leaking substances were migrating to other portions of the Site and off Site. These substances presented an imminent and substantial threat to human health and environment.

c. On May 3, 1995, a time critical Removal Action Memorandum was signed authorizing a removal action involving the following response actions: a) securing the Site; b) sampling and categorizing hazardous materials; c) removing hazardous substances and grossly contaminated equipment, structures, and debris; d) sampling surface and subsurface soils and groundwater to determine the nature and extent of contamination; e) disposing, stabilizing or treating grossly contaminated soils; and f) grading, capping, and fencing areas where contamination remained in the soil.

d. On May 9, 1995, EPA issued Unilateral Administrative Order 95-15 ("the 1995 UAO") to certain Potentially Responsible Parties ("PRPs") to perform work described by the Action Memorandum. These parties each arranged for the disposal of hazardous substances at the Site in an amount equal to or greater than ten tons. These parties established a group identified as the Omega PRP Organized Group ("OPOG").

e. In September 1998, EPA proposed the Site for listing on the National Priorities List ("NPL"). On January 19, 1999, pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Omega Site on the NPL, as set forth at 40 C.F.R. Part 300, Appendix B. (See, 64 Fed. Reg. 2950)

f. To expedite Site characterization and response activities, EPA divided the Site into operable units. The operable units for the Site include Operable Unit One which addresses work to be performed within the Phase 1a Area and Operable Unit Two which addresses work to be performed downgradient from the Phase 1a Area. The Phase 1a Area is the area of soil and groundwater contamination associated with the Omega Facility property and extending downgradient approximately 100 feet southwest of Putnam Street, Whittier, California. Operable Unit Two addresses all other areas where contamination associated with the Omega Facility has come to be located, specifically the groundwater plume which extends downgradient of the Phase 1a Area.

g. On April 1, 1999, EPA issued Special Notice Letters to OPOG members and commenced negotiations of a Partial Consent Decree requiring response work including a non-time critical removal action and a Remedial Investigation and Feasibility Study ("RI/FS") addressing soils located within the Phase 1a Area, also known as Operable Unit One. If, however, data are obtained during the RI/FS which indicate that soil or soil vapor contamination existing on adjacent properties is attributable to releases on the Omega Facility property, then investigations would extend to these off-site areas. On February 28, 2000, the Partial Consent Decree, Docket No. 00-12741-TJH, was entered by the United States District Court for the Central District of California.

h. On January 5, 2004, EPA issued Unilateral Administrative Order No. 9-2004-0004 ("the 2004 UAO") to twenty (20) parties to perform remedial investigative work at the Site. On July 2, 2004, EPA issued an Amended Unilateral Administrative Order No. 9-2004-0004 ("the 2004 Amended UAO") to these parties to perform similar investigative work to

characterize the groundwater plume within Operable Unit Two at the Site. These parties were not signatories to the Partial Consent Decree entered on February 28, 2000. The respondents of the 2004 Amended UAO arranged for the disposal of hazardous substances at the Site in an amount equal to or greater than ten tons.

i. Since February 2002, EPA has installed and sampled groundwater monitoring wells downgradient of the Phase 1a Area as part of the Operable Unit Two investigation. EPA has gathered data during quarterly groundwater sampling which identifies a downgradient groundwater plume existing as a result of releases of hazardous substances at the Site. After one year of sampling, EPA established that a groundwater plume underneath and downgradient from the Omega Facility contains the hazardous substances found at the Omega Facility including, but not limited to, PCE, TCE, Freon 11, and Freon 113. Additional monitoring and sampling are necessary to fully characterize the groundwater plume. This sampling and data will be incorporated into a RI/FS for the Site, pursuant to CERCLA and the NCP, 40 C.F.R. Part 300.

8. Hazardous substances, including PCE, TCE, 1,1-DCE, Freon 11, and Freon 113, were found in indoor air at the Skateland Building and in the soil vapor located on the adjacent Omega Facility property. These hazardous substances are the same hazardous substances which were, and continue to be, released into soils and groundwater at the Site.

a. On April 12 and 13, 2004, OPOG performed soil vapor sampling at the Omega Facility property. Results of this sampling showed maximum concentrations of over 1,500,000 ug/m³ PCE; 400,000 ug/m³ TCE; 1,000,000 ug/m³ 1,1-DCE; 950,000 ug/m³ Freon 11; and 3,000,000 ug/m³ Freon 113. On May 11, 2004, OPOG performed indoor air sampling within the Skateland Building. Results of this sampling showed high levels of PCE, TCE, 1,1-DCE, Freon

11, and Freon 113 within the building. PCE was detected in the indoor air at 1,100 ug/m³, a level far above the EPA Preliminary Remediation Goal ("PRG") long-term health-protective screening level of 0.32-32 ug/m³ and below the Agency for Toxic Substance and Disease Registry ("ASTDR") Minimal Risk Level ("MRL") short-term health-protective screening level of 1,400 ug/m³. Continuous exposure to PCE in air exceeding the ATSDR MRL for 24 hours or more is considered an acute level of exposure.

b. After EPA requested the Respondents and Skateland to increase ventilation within the Skateland Building, EPA performed additional indoor air sampling on July 30 and 31, 2004. On August 4, 2004, OPOG also performed additional indoor air sampling. Results from these sampling events indicate that PCE indoor air levels decreased from the May 11, 2004, sampling event. However, PCE, TCE, and 1,1-DCE concentrations remained at elevated exposure levels, above the long-term health-protective screening levels.

9. Releases and threats of releases of hazardous substances onto the Property and into the Skateland Building pose a threat to human health and the environment.

10. Entry onto the Property and into the Skateland Building is necessary to determine the appropriate response and to perform a response action to abate risks to human health and the environment. See CERCLA § 104(e)(3); 40 C.F.R. § 300.400(d).

11. To address the release or threatened release of a hazardous substance or pollutant or contaminant at the Property, EPA is planning to conduct certain response actions. These actions include assessment and remediation of contaminated soils and the contaminated indoor air related to vapor intrusion.

12. To perform the response actions described above, it will be necessary for employees, agents, contractors, and other representatives of EPA to immediately enter the Property. The activities for which entry is required include:

Sampling soil and soil vapor

Sampling indoor air

Investigating potential pathways of vapor intrusion

Installing interim and permanent measures to address risks

Implementing a remedy to address source soils

Monitoring the remedy and/or overseeing PRP work

13. EPA estimates that the duration of the required entry and access will be approximately two to three years.

14. Despite requests from representatives of EPA, Respondents have refused to provide access for purposes of performing the response activities described above. These requests include: several phone calls to the Respondent, Thomas Shayman, Co-Trustee, and to Victor Daniels, attorney for Thomas Shayman, requesting access; letters dated September 20, 2004, October 4, 2004, October 28, 2004, and November 10, 2004 from Thanne Cox, EPA Assistant Regional Counsel, to Victor Daniels requesting access; and meeting with the Respondent, Thomas Shayman, Co-Trustee, and Victor Daniels on September 28, 2004 in Victor Daniels' office requesting access. Respondents have conditioned a grant of access upon a monetary payment from EPA and for a limited duration. Further, Respondents' proposed Access Agreement sent to EPA contained the following conditions: EPA keep all correspondence between Respondents and EPA, including the proposed Access Agreement, out of the public

record and not subject to release to the public; no unreasonable interference with the use and enjoyment of property by EPA; judicial review of the proposed Access Agreement upon dispute; upon judicial review, the State of California laws would determine the performance, interpretation, validity, and legal effect of the proposed Access Agreement; and any action must be brought within the County of Los Angeles, California state court. Finally, Respondents' grant of access is limited in scope and in duration of two to three days. Thereafter, Respondents wish to renegotiate access. In light of the fact that EPA has been requesting access for four months, the Agency does not have the resources to pursue access for each activity to be taken at the Property and the necessary work will be continuously delayed.

15. Response actions at the Site must be performed in an expeditious manner due to the health-based risk the contaminated indoor air poses to Skateland customers, primarily children. High levels of PCE and TCE can damage the liver, kidneys, and nervous system, and are suspected to cause cancer. 1,1-DCE is also considered to be a possible cancer-causing chemical. Exposure to extremely high levels of Freon 11 and Freon 113 may affect the nervous system. EPA and its contractors have been ready to perform the sampling since August 2004, but have been prevented from so doing because of the Respondent's failure to grant access.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

16. Respondent is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

17. All of the substances listed in Paragraph 6 above are hazardous substances or pollutants or contaminants within the meaning of Sections 101(14) and 101(23) of CERCLA, 42 U.S.C. §§ 9601(14), 9601(23).

18. Based on the information provided in Paragraph 8 of this Order, EPA has a reasonable basis to believe that there may be a release or threat of release of a hazardous substance or pollutant or contaminant, within the meaning of Sections 101(22) and 104(e)(1) of CERCLA, 42 U.S.C. §§ 9601(22) and 9604(e)(1), at the Property.

19. The property owned or controlled by Respondents referred to in Paragraph 4 above is, or is adjacent to, a vessel, facility, establishment, or other place or property:

- a. where a hazardous substance has been generated, stored, treated, disposed of, or transported from; and
- b. from or to which a hazardous substance has been or may have been released; and
- c. where such release is or may be threatened; and
- d. where entry is needed to determine the need for response, to identify the appropriate response, or to effectuate a response action

within the meaning of Section 104(e)(3) of CERCLA, 42 U.S.C. § 9604(e)(3).

20. Entry to property owned or controlled by Respondents by the agents, contractors, or other representatives of the United States is needed for the purposes of determining the need for response, choosing a response action, taking a response action, or otherwise enforcing the provisions of CERCLA, within the meaning of Section 104(e)(1) of CERCLA, 42 U.S.C. § 9604(e)(1).

21. Respondents' attempts to condition its grant of access amounts to a denial of access within the meaning of Section 104(e)(5)(A) of CERCLA, 42 U.S.C. § 9604(e)(5)(A), and 40 C.F.R. 300.400(d)(4)(i)].

V. ORDER

22. Based upon the foregoing Findings of Fact, Conclusions of Law and Determinations, and the Administrative Record, Respondents are hereby ordered to provide EPA, its officers, employees, agents, contractors, and other representatives, and parties performing work pursuant to an EPA order or agreement, full and unrestricted access at all reasonable times to the Property for the purpose of conducting response activities, including, but not limited to, soil and indoor air sampling, implementation of interim measures, performance of a remedy to address the source contamination and monitoring the implemented remedy.

23. Respondents shall not interfere with EPA's exercise of its access authorities pursuant to 42 U.S.C. § 9604(e) and 40 C.F.R. § 300.400(d), and shall not interfere with or otherwise limit any activity conducted at the Property pursuant to this Order by EPA, its officers, employees, agents, contractors, or other representatives. Any such interference shall be deemed a violation of this Order.

24. Nothing herein limits or otherwise affects any right of entry held by the United States pursuant to applicable laws, regulations, or permits.

25. This Order shall apply to and be binding upon Respondents and its successors, heirs and assigns, and each and every agent of Respondents and upon all other persons and entities who are under the direct or indirect control of Respondents, including any and all lessees of Respondents.

26. In the event of any conveyance by Respondents, or Respondents' agents, heirs, successors and assigns, of an interest in the Property, Respondents or Respondents' agents, heirs, successors and assigns shall convey the interest in a manner which insures continued access to the Property by EPA and its representatives for the purpose of carrying out the activities pursuant to this Order. Any such conveyance shall restrict the use of the Property so that the use will not interfere with activities undertaken or to be undertaken by EPA and its representatives. Respondents, or Respondents' agents, heirs, successors and assigns shall notify EPA in writing at least thirty (30) days prior to the conveyance of any interest in the Property, and shall, prior to the transfer, notify the other parties involved in the conveyance of the provisions of this Order.

VI. ENFORCEMENT

27. Compliance with this Order shall be enforceable pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5). A court may impose a civil penalty on Respondents of up to \$32,500 for each day that Respondents unreasonably fails to comply with this Order, as provided in Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5), and the Civil Monetary Penalty Inflation Adjustment Rule, 69 Fed. Reg. 7121, 40 C.F.R. Part 19.4. In addition, any person who is liable for a release or threat of release of a hazardous substance or pollutant or contaminant and who fails to comply with this Order may be liable for punitive damages in an amount up to three

times the amount of any costs incurred by the United States as a result of such failure, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Nothing herein shall preclude EPA from taking any additional enforcement actions, and/or other actions it may deem necessary for any purpose, including the prevention or abatement of a threat to the public health, welfare, or the environment arising from conditions at the Site, and recovery of the costs thereof.

28. Nothing in this Order constitutes a waiver, bar, release, or satisfaction of or a defense to any cause of action which EPA has now or may have in the future against Respondents, or against any entity which is not a party to this Order.

29. Nothing in this Order shall affect in any manner the right of EPA to issue any other orders to or take any other administrative or civil action against Respondents or any other parties under CERCLA which relate to this Site or any other site.

30. Nothing in this Order constitutes a decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

VII. ADMINISTRATIVE RECORD

31. EPA has established an Administrative Record which contains the documents that form the basis for the issuance of this Order. It is available for review by appointment on weekdays between the hours of 9:00 a.m. and 4:00 p.m. at the EPA offices in San Francisco, California. To review the Administrative Record, please contact the Superfund Record Center at (415) 536-5000 to make an appointment. A copy of the Administrative Record is also available for viewing at the Whittier Public Library, 7344 S. Washington Avenue, Whittier, CA 90602.

VIII. OPPORTUNITY TO CONFER

32. Within one business day after receipt of this Order by Respondents, Respondents may request a conference with EPA, to be held no later than two business days after Respondents' request, on any matter pertinent to this Order, including its applicability, the factual findings and the determinations upon which it is based, the appropriateness of any actions Respondents are ordered to take, or any other relevant and material issues or contentions which Respondents may have regarding this Order. Respondents may appear in person or by an attorney or other representative at the conference. Respondents may also submit written comments or statements of position on any matter pertinent to this Order no later than the time of the conference, or at least two business days before the effective date of this Order if Respondents do not request a conference. EPA will deem Respondents to have waived its right to the conference or to submit written comments if it fails to request the conference or submit comments within the specified time period(s). Any request for a conference or written comments or statements should be submitted to:

Thanne Cox
Office of Regional Counsel
United States Environmental Protection Agency
75 Hawthorne Street, Mail Code ORC-3
San Francisco, California 94105
(415) 972-3908
(415) 947-3570 (fax)
cox.elizabeth@epa.gov

IX. EFFECTIVE DATE; COMPUTATION OF TIME

32. Because of the immediate need to conduct the activities described above, this Order shall be effective three business days after its receipt by Respondents or Respondents' designated representative unless a conference is timely requested as provided above. If a conference is timely requested, then at the conclusion of the conference or after the conference, if EPA determines that no modification to the Order is necessary, the Order shall become effective immediately upon notification by EPA of such determination. If modification of the Order is determined by EPA to be necessary, the Order shall become effective upon notification by EPA of such modification. Any EPA notification under this paragraph may, at EPA's discretion, be provided to Respondents by facsimile, electronic mail, or oral communication; provided that if EPA does use such a form of notification, it will also confirm such notification by first class, certified or express mail to Respondents or its legal counsel. Any amendment or modification of this Order by EPA shall be made or confirmed in writing.

33. For purposes of this Order, the term "day" shall mean a calendar day unless expressly stated to be a business day. "Business day" shall mean a day other than a Saturday, Sunday, or federal legal holiday. When computing any period of time under this Order, if the last day would fall on a Saturday, Sunday, or federal legal holiday, the period shall run until the next business day.

X. NOTICE OF INTENT TO COMPLY

35. On or before the effective date of this Order, Respondents shall notify EPA in writing whether Respondents will comply with the terms of this Order. Respondents' failure to notify EPA of its unconditional intent to fully comply with this Order by the time the Order becomes effective shall be 1) construed as a denial of EPA's request for access, and 2) as of the effective date of the Order, treated as a violation of the Order. Such written notice shall be sent to:

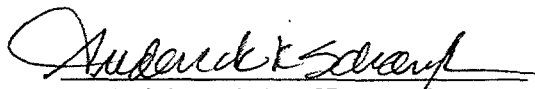
Thanne Cox
Office of Regional Counsel
United States Environmental Protection Agency
75 Hawthorne Street, Mail Code ORC-3
San Francisco, California 94105
(415) 972-3908
(415) 947-3570 (fax)
cox.elizabeth@epa.gov

XI. TERMINATION

36. This Order shall remain in effect until Frederick K. Schauffler, Chief of Superfund Site Cleanup Section 4, or his designee notifies Respondent in writing that access to the Property is no longer needed.

SO ORDERED.

Date: Dec. 3, 2004



Frederick K. Schauffler, Chief
Site Cleanup Section 4
Superfund Enforcement Site Cleanup Branch

Appendix A

Legal Description

A.P.N. No: 8170-029-024

The Northwesterly 200 feet (measured at right angles to the Northwesterly line thereof) of Lots 1 and 2 of Tract No. 13486, in the City of Whittier, in the County of Los Angeles, State of California, as per Map recorded in Book 312 pages 16, 17, and 18 of Maps, in the office of the County Recorder of said County.

Also known as 12520 Whittier Boulevard, Whittier, California.

Appendix B

Documents Regarding Ownership of the Property

04 2411790

2

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO

LIBBY L. BARRABEE, ESQ.
Van Sickle & Rowley, LLP
90 East Thousand Oaks Blvd., Suite 300
Thousand Oaks, CA 91360

space above this line for recorder's use

APN 8170-029-024

AFFIDAVIT - INCAPACITY OF TRUSTEE

We, KATHRYN CHEE and THOMAS J. SHAYMAN, of legal age, being first duly sworn, depose and say:

That JO ANN K. SHAYMAN, the individual mentioned in the attached copy of letters executed by two licensed physicians (see attached Exhibit A) certifying that JO ANN K. SHAYMAN lacks the capacity to manage her own affairs, is the same person as JOANN K. SHAYMAN, Trustee of the JoAnn K. Shayman Survivor's Trust, dated May 30, 2001, the John W. Shayman Marital Trust, dated May 30, 2001, and the John W. Shayman Exemption Trust, dated May 30, 2001, named as the parties in that certain Quitclaim Deed executed on September 16, 2002 by JOANN K. SHAYMAN, Trustee of the Shayman Living Trust dated November 1, 1973, as amended and restated and recorded as Document Number 02 2556271 Official Records of Los Angeles County, California, on October 28, 2002; covering the real property situated in the City of Whittier, County of Los Angeles, State of California described as follows:

The Northwesterly 200 feet (measured at right angles to the Northwesterly line thereof) of Lots 1 and 2 of Tract No. 13486, in the City of Whittier, in the County of Los Angeles, State of California, as per Map recorded in Book 312 pages 16, 17 and 18 of Maps, in the office of the County Recorder of said County.

Also known as 12520 Whittier Boulevard, Whittier, California

04 2411790

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That pursuant to the terms of John W. Shayman Exemption Trust, dated May 30, 2001, THOMAS J. SHAYMAN and KATHRYN SHAYMAN (now known as KATHRYN CHEE) are designated successor co-trustee of all trusts established under the Shayman Living Trust dated November 1, 1973, as amended and restated;

That KATHRYN CHEE (formerly KATHRYN SHAYMAN) and THOMAS J. SHAYMAN have accepted their appointment as co-trustees;

That KATHRYN CHEE and THOMAS J. SHAYMAN are now serving as co-trustees of the JoAnn K. Shayman Survivor's Trust, dated May 30, 2001, the John W. Shayman Marital Trust, dated May 30, 2001 and the John W. Shayman Exemption Trust, dated May 30, 2001.

Dated: 7.17.04 Kathryn Chee (formerly Kathryn Shayman)
KATHRYN CHEE (formerly KATHRYN SHAYMAN), Trustee

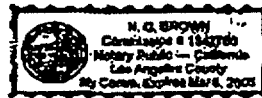
Dated: 7.17.04 Thomas J. Shayman
THOMAS J. SHAYMAN, Trustee

SUBSCRIBED AND SWORN TO before me

this 17th day of July, 2004

Signature: TKAP

Notary Public in and for the State of California



4
04 2411790

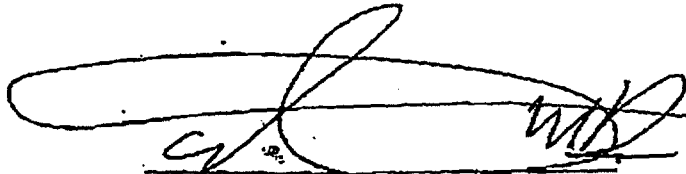
CERTIFICATE OF DISABILITY OF
JO ANN K. SHAYMAN

That I, Andrew R. Gustavson, M.D. am a neurologist at the David Geffen School of Medicine at UCLA.

That I have made a comprehensive neurological assessment of Jo Ann K. Shayman in my clinic at UCLA.

In my opinion Ms. Shayman is significantly impaired with respect to cognitive functioning and has remarkable loss of short term memory and diminished ability to attend and stay focused. In my opinion Ms. Shayman's cognitive functioning is not adequate to understand or appreciate the complexities of financial transactions and based upon said disability would be unable to perform her duties as Trustee of her Trust.

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct and that this declaration was executed on May 4, 2004 at Los Angeles, California.



Andrew R. Gustavson, M.D.

EXHIBIT A

04 2411790

5

CERTIFICATE OF DISABILITY OF
JO ANN K. SHAYMAN

That I, Arun Karlamangla, M. D. am a geriatric specialist at the David Geffen School of Medicine at UCLA.

That I have made a comprehensive geriatric assessment and consultation with Jo Ann K. Shayman in my clinic at UCLA. *in August/Sep 2003*

In my opinion Ms. Shayman is significantly impaired with respect to cognitive functioning and has remarkable loss of short term memory and diminished ability to attend and stay focused. In my opinion Ms. Shayman's cognitive functioning is not adequate to understand or appreciate the complexities of financial transactions and based upon said disability would be unable to perform her duties as Trustee of her Trust.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on May 7, 2004 at Los Angeles, California.


Arun Karlamangla, M. D.

✓ Lic # A064543

UCLA Geriatrics

(310) 206-8272

EXHIBIT A



02 2556271

RECORDED/FILED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
8:04 AM OCT 28 2002

SPACE ABOVE THIS LINE FOR RECORDERS USE

TITLE(S)

Deed

FEE
FEE \$13 1
3

D.T.T.

CODE
20

CODE
19

CODE
9

Assessor's Identification Number (AIN)
To Be Completed By Examiner OR Title Company In Black Ink

Number of Parcels Shown

8170 029 024

001

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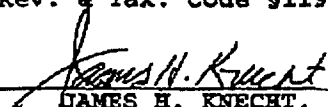
JAMES H. KNECHT
Attorney at Law
P.O. Box 2280
Paso Robles, CA 93447

Space above this line for Recorder's use

Documentary Transfer Tax \$0.00

APN: 8170-029-024

This is an exempt inter vivos transfer
outright to or in trust for the named
transferee(s).
(Rev. & Tax. Code §11930)


JAMES H. KNECHT,
Attorney at Law

QUITCLAIM DEED

JOANN K. SHAYMAN, Trustee of the Shayman Living Trust dated November 1, 1973, as amended and restated, hereby transfers and forever quitclaims, without consideration, the real property described in Exhibit A attached hereto, located in Los Angeles County, California, as follows:

38.30% undivided interest to JOANN K. SHAYMAN, Trustee of the JoAnn K. Shayman Survivor's Trust dated May 30, 2001.

38.97% undivided interest to JOANN K. SHAYMAN, Trustee of the John W. Shayman Marital Trust dated May 30, 2001.

22.73% undivided interest to JOANN K. SHAYMAN, Trustee of the John W. Shayman Exemption Trust dated May 30, 2001.

Dated September 16, 2002


JOANN K. SHAYMAN, Trustee

MAIL TAX STATEMENTS TO:

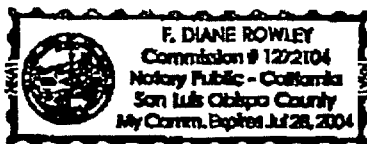
JoAnn K. Shayman
2325 Hidden Valley Road
Templeton, CA 93465

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STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN LUIS OBISPO)

On this 16th day of September, 2002, before me, F. Diane Rowley, Notary Public, personally appeared JoAnn K. Shayman, personally known to me (~~ex proved to me on the basis of satisfactory evidence~~) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



F. Diane Rowley
Notary Public

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EXHIBIT A

The Northwesterly 200 feet (measured at right angles to the Northwesterly line thereof) of Lots 1 and 2 of Tract No. 13486, in the City of Whittier, in the County of Los Angeles, State of California, as per Map recorded in Book 312 Pages 16, 17 and 18 of Maps, in the Office of the County Recorder of said County.

EXCEPTING THEREFROM all deposits of minerals, including oil and gas in said land, together with the right to prospect for, extract and remove such deposits of minerals including oil and gas therefrom, as reserved in the Deed from the State of California, recorded May 13, 1947, as Instrument No. 1842 in Book 24570 Page 269, Official Records.

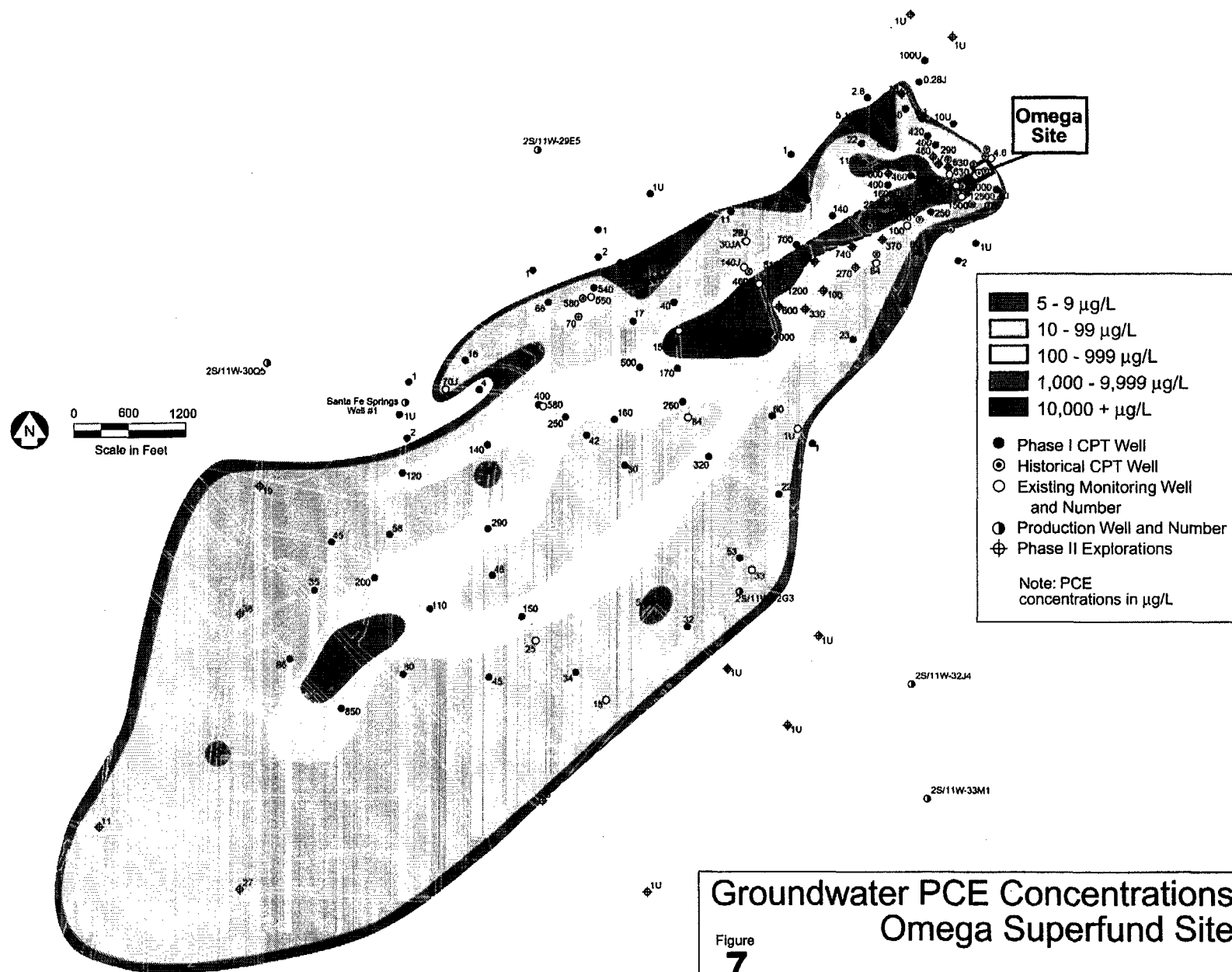
In the Deed from the State of California conveying said land in which Deed the minerals in said land are reserved the State's intention with respect to the removal of said mineral is declared to be, to conduct surface operations for such removal from adjoining lands then owned by the State, or in the event that no adjoining lands are so owned such surface operations shall be limited to land other than that herein described.

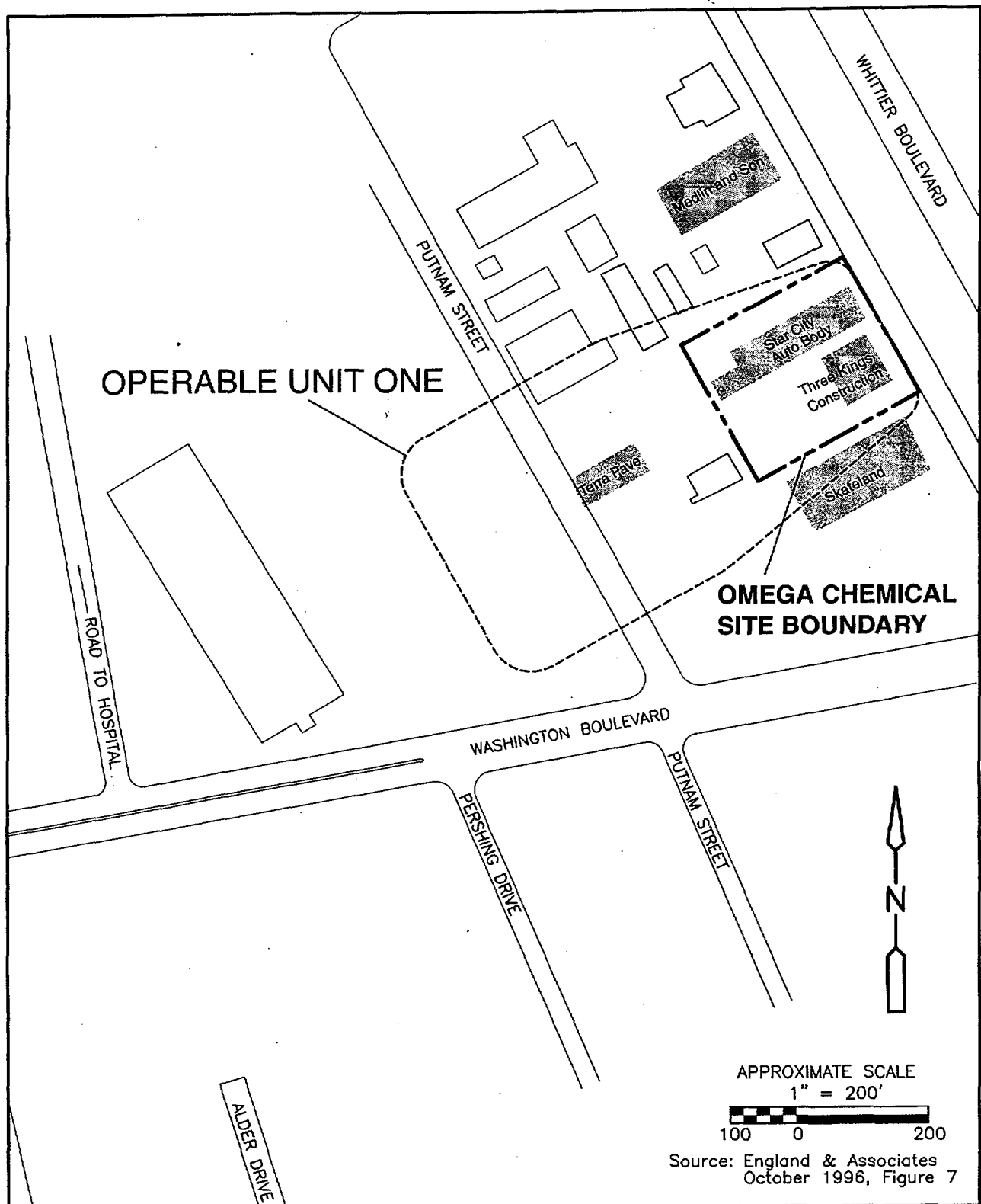
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Appendix C

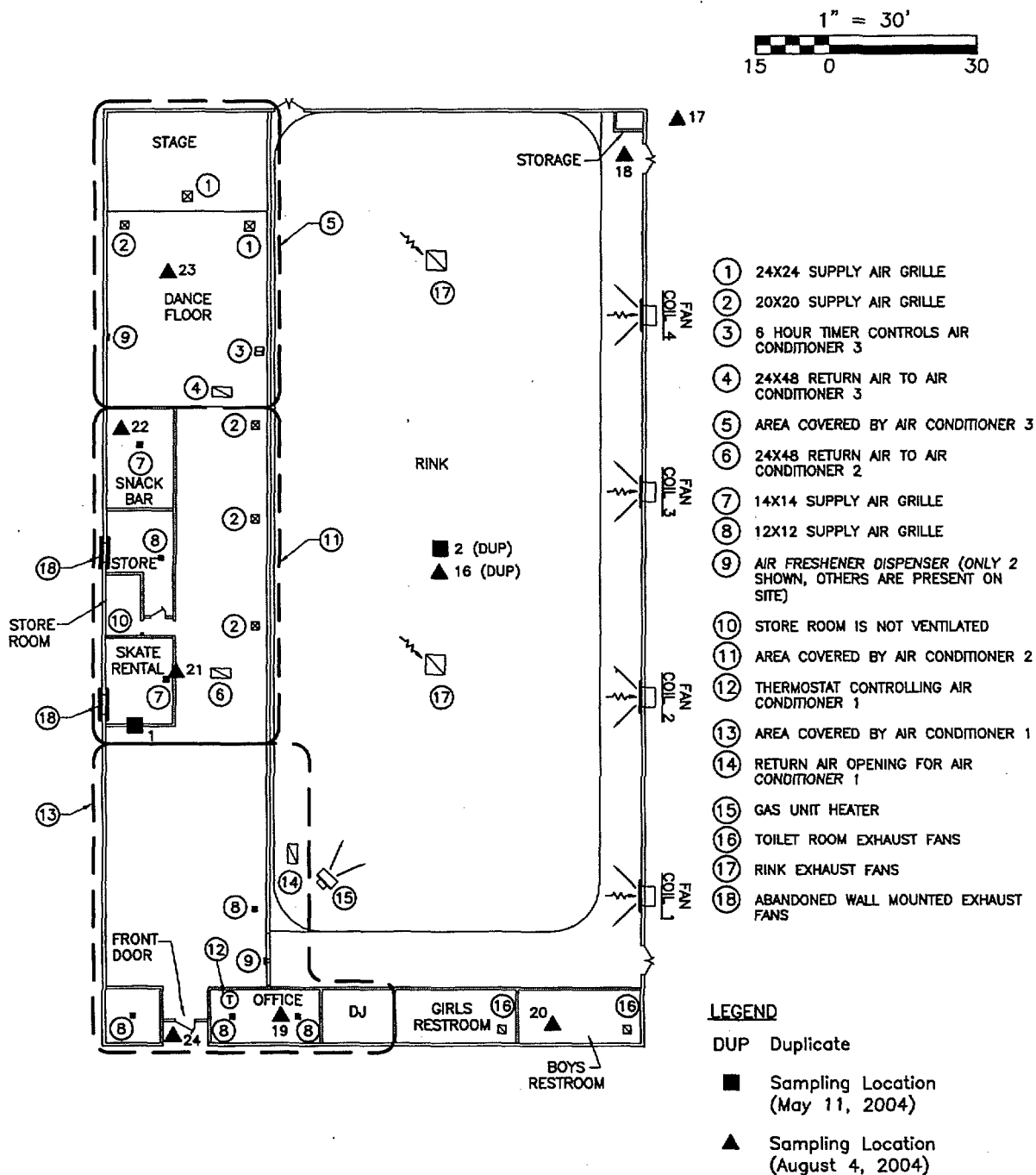
Maps





Omega Site - Operable Unit One

DATE: Sep 01, 2004 4:04pm XREFS: SKATELAND
 DWG: P:\10500\OCad\Reports\Skateland Air\FIGURE_01.dwg USER: negrelegd



Skateland Air Sampling Locations
 (May 11 and August 4, 2004)

Figure 1